



COUNCIL ASSESSMENT REPORT

SOUTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSTH-476 DA0365/2024
PROPOSAL	Demolition of existing structures and tree removal, construction of four residential flat buildings with 152 independent living units and associated clubroom and library, two levels of basement parking, associated landscaping and a new road
ADDRESS	<u>Application Site</u> 171 Wattle Road, Shellharbour City Centre Lot 2 DP 1043053 <u>Associated Site</u> 191 Wattle Road, Shellharbour City Centre Lot 2001 DP 1250959
APPLICANT	The Uniting Church in Australia Property Trust (NSW)
OWNER	The Uniting Church in Australia Property Trust (NSW)
DA LODGEMENT DATE	21 January 2025
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 2 and Clause 3 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: • The development has an estimated development cost of more than \$30 million. • The development has an estimated development cost of more than \$5 million, and stormwater drainage and connection for the subject site will be via Council owned land.
EDC	\$110,269,814.00
CLAUSE 4.6 REQUESTS	None
KEY SEPP/LEP	• <i>State Environmental Planning Policy (Housing) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i>

	• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>Shellharbour Local Environmental Plan 2013</i> • <i>Shellharbour Development Control plan 2013</i> • <i>Apartment Design Guidelines (ADG)</i> • <i>Uniting Care Ageing Precinct Development Strategy</i>
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Notification period - 13 February 2025 to 12 March 2025 Two (2) Submissions received
DOCUMENTS SUBMITTED FOR CONSIDERATION	Attachment A: State Environmental Planning Policy (Housing) 2021 Attachment B: Apartment Design Guidelines Attachment C: Shellharbour Local Environmental Plan 2013 Attachment D: Shellharbour Development Control Plan 2013 Attachment E: Precinct Development Strategy – Precinct M Attachment F: Design Review Panel Comments Attachment G: Draft Notices of Determination Attachment H: Architectural Plans Attachment I: Civil Plans Attachment J: Landscape Plans Attachment K: Traffic Impact Assessment Attachment L: Arboricultural Impact Assessment Attachment M: Demolition and Construction Waste Management Plan Attachment N: Operational Waste Management Plan Attachment O: Operational Management Plan Attachment P: Noise Impact Assessment Attachment Q: Access Report Attachment R: Construction Management Plan Attachment S: BASIX Certificate Attachment T: Services Infrastructure Report Attachment U: Stage 1 Geotechnical Site Investigation and Groundwater Inflow Assessment Report - 171 Wattle Road, Shellharbour City Centre
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	None Required
RECOMMENDATION	Approval

DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	26 August 2025
PLAN VERSION	As lodged via the NSW Planning Portal 18.07.2025 Architectural Plan Suite made up of the following versions: 07.07.2025 Revision C, E, F, G, H, I, J, K, L
PREPARED BY	Cleo Dyer – Senior Town Planner – Statutory Planning
DATE OF REPORT	19 August 2025

EXECUTIVE SUMMARY

The proposed development application DA0365/2024 seeks consent for the demolition of existing structures and tree removal, construction of four residential flat buildings with 152 independent living units and associated clubroom and library, two levels of basement parking, associated landscaping and a new road ('the proposal'), at 171 Wattle Road, Shellharbour City Centre ('the site'). The development forms stage 1 of the larger development for seniors housing with ancillary services as approved under a concept development application DA0331/2012 on 10 February 2014 by the Joint Regional Planning Panel. The concept approval determined the key components of the proposal, including the total number of buildings and associated building heights, building envelopes, setback design, total number of units, parking spaces, ancillary uses, vehicle access and floor space ratio.

The concept approval was later modified pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and the modification application was approved by the Southern Regional Planning Panel on 20 May 2025. The application DAM0146/2024 was lodged concurrently with the subject application and approved the minor amendments to the concept approval in relation of the building envelopes of the stage 1 buildings, the redistribution of car parking and residential units, gross floor area and communal open space. Henceforth, the subject application is governed by the modified concept approval to enable the delivery and construction of the stage 1 portion of the site for seniors housing. Condition No. 4 - Limits on the Consent, pursuant to DAM0146/2024 states; "This consent does not authorise construction of any buildings or works of the Concept Approval to be carried out without further approval or consent being obtained", thus the delivery of the built form for senior living is sought under subject development application.

The proposed development application is declared as regionally significant development and determination is therefore referred to the Southern Regional Planning Panel ('the Panel') as the estimated development cost is greater than \$30 million, pursuant to section 2.19(1) and Clause 3 of Schedule 6 of *SEPP (Planning Systems) 2021*. The proposed development is also reliant upon connection to Council stormwater infrastructure located at 191 Wattle Road, and as such is also referred to the Panel for determination pursuant to Clause 2 of Schedule 6 of *SEPP (Planning Systems) 2021*.

The site is an irregular shape allotment of 42,600m², that has remained vacant with the exception of an area of sparse vegetation located along the perimeter of the site and an access road, known as Davey Close which is accessed at the northern end of Wattle Road. Davey Close allows vehicle access to adjoining site to the south, 15 Benson Avenue. The site is located between Wattle Road to the east and shares a western boundary with 13 Benson Avenue and 191 Wattle Road.

The site is identified as the transitional point between the Shellharbour City Centre, which is commercial core supported by high density residential living to the west and lower density residential to the predominantly low to medium density residential development areas which surround the site to the east. The site is located in the R3 Medium Density Residential zone in accordance with the Shellharbour Local Environmental Plan 2013 and seniors housing is permitted with consent pursuant to Clause 2.2 of the *Shellharbour Local Environmental Plan 2013* ('LEP 2013').

In conjunction with the modified concept approval (which prevails where there are inconsistencies), the principle planning controls relevant to the proposal include *State Environmental Planning Policy (Housing) 2021* and the associated the Apartment Design Guidelines (ADGs), the *Shellharbour Local Environmental Plan 2013*, the *Shellharbour Development Control Plan (DCP) 2013* and Uniting Care Ageing Precinct Development Strategy. The proposal is generally consistent with the legislative provisions and

specifications, however minor variations are noted in relation to the ADGs and Shellharbour DCP 2013 as noted below:

- Objectives 2E Building Depth
- Objective 2F Building Separation
- Objective 3F-2 Visual Privacy
- Objective 4A-1(3) Solar and Daylight Access
- Objective 4D-2(2) Apartment Size and Layout
- Chapter 23 – Cutting, Filling and Retaining Walls

A comprehensive assessment has considered the variations to be minor in nature and are noted to be acceptable on merit due to proposed associated mitigation measures, thus permitting appropriate grounds for justification. Notwithstanding that, the modified concept approval takes precedent, whereby inconsistencies are present and given the history of the concept approval and evolution of the planning provisions and legislation, the non-compliances are noted to be a result of the historical context.

There are no concurrence requirements from external agencies as part of the detailed design for stage 1 of the proposal and the application is not classified as integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). A referral to Transport for NSW pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') was however undertaken and no objections were raised. NSW Police were also consulted as part of the assessment, with recommended conditions of consent provided.

Internal referrals were issued within the scope of the development assessment and proponent resolved all matters raised, which included engineering and environmental matters associated as a result of the internal referral process.

The application was placed on public exhibition from 13 February 2025 to 12 March 2025, with two (2) submissions being received. These submissions raised issues relating to privacy and overshadowing impacts, traffic congestion and access points, and construction management. These issues are considered further in this report.

An initial briefing was held with the Panel on 12 March 2025 which discussed the modification application DAM0146/2024 and subject development application. The applications were discussed concurrently to express the connection and relationship between the two applications. The matters discussed included the approval history and approved development conceptual scope, the rationalisation of the modifications with consideration against the updated planning provisions and the alignment with subject development application for the delivery of stage 1, the external concurrences and referrals, outstanding referrals and the public consultation period.

The key issues associated with the proposal included:

- **Building Separation** – Noting the proposed connection with the concurrent modification application DAM0146/2024, Council identified the design was reliant upon reduced setbacks and separation distances between the stage 1 buildings (R1, R2, R3 and R4). As such, the support of these modifications as part of the modification application would dictate the stance of the subject stage 1, detailed design application. As such, a complete assessment was undertaken against the stage 1 development application, to ensure the modifications to the building separation could be supported and justified, thus acceptable to govern the subject application. The design mitigation measures proposed to support the reduced building separation were noted to be significantly resolved and ensured that there

was minimal opportunity for visual privacy matters and direct overlooking between units. The amended building separation and non-compliances with the ADGs are a result of the updated planning framework and provisions, noting the original assessment complied with the relevant instrument of the time, being with SEPP Policy No. 65 – Design Quality of Residential Flat Development.

- *Engineering Matters* – Additional information was sought in relation to earthworks, retaining wall design and access considerations, as well as clarification to the overall conceptual design to safeguard the suitability of the associated engineering matters throughout the progression of the development in an ongoing capacity to completion. The engineering matters specifically identified for the subject application correlated to the modification, and included greater matters for consideration, namely the construction management plan and traffic patterns and design of the site.

Both key matters above are considered to be resolved. Whereby further matters were raised following the briefing meeting with the Panel, resolution has also been achieved. Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA0365/2024 is recommended for approval.

1. THE SITE AND LOCALITY

1.1 The Site

The site is located at 171 Wattle Road, Shellharbour City Centre and has a legal description of Lot 2 DP 1043053 (see Figure 1). The site is currently vacant; however, a number of existing established trees are located throughout the site, primarily along the site perimeter, and an internal access road extends from north to south through the centre. The access road traverses the length of the site and connects to Wattle Road at the northern end and provides vehicle access to the adjoining site to the south, being 15 Benson Avenue, Shellharbour City Centre.

The site is a large, irregular allotment with a total area of 42,600m². The natural topography is a notable feature of the site, the contours presenting a fall from east to west by 12m, with a cross slope from south to north by 7m. The eastern boundary of the site is along Wattle Road, and spans approximately 430m in length.

The subject site is currently zoned as R3 Medium Density Residential in accordance with the Shellharbour Local Environmental Plan 2013 and seniors housing is permitted with consent.

The associated site is located at 191 Wattle Road, Shellharbour City Centre and is Council owned land, commonly referred to as 'Benson Basin'. The stormwater arrangement and the design is reliant upon the connection to the existing drainage basin within this land and as such forms part of the application (see Figure 1).

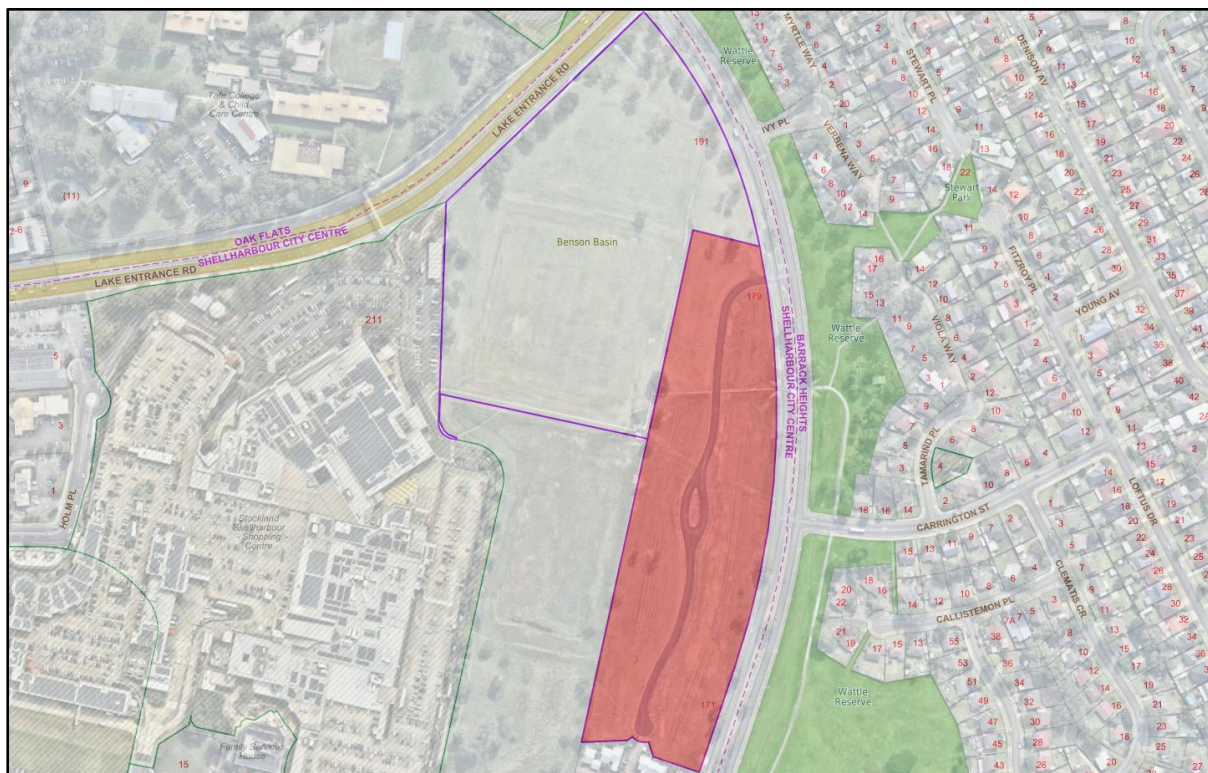


Figure 1: Subject site is highlighted in red and the Council owned land is outlined in purple

1.2 Property Constraints

The site is affected by the following significant land constraints:

- Flood Affected
- Obs. Height Lines RL 100

- Obs. Height Surface – 52 – 127m

1.3 Restriction on Title

There are restrictions on title burdening each lot, as described below:

- Easement to Drain Water 3 Wide

Comment: Easement to Drain Water 3 Wide is not located within the stage 1 development site, however Davey Close, the existing site road to be demolished and the construction of Road No.1 to be completed as part of this application. No structure or built form is to be located over the or within the easement site, as such the relevant conditions of consent recommended.

- Right of Carriageway 15 Wide and Variable (A)

Comment: The proposed development seeks consent to extinguish the Right of Carriageway 15 Wide and Variable. As noted within figure 2 below, the easement traverses the site and provides vehicular access to Lot 1, known as 15 Benson Bason, Shellharbour City Centre. The modified concept approval granted consent for the relocation of the access road to be parallel to the western side boundary to create an improved site pattern, creating opportunity for improved utilisation of the site.

Shellharbour City Council is the consent authority required to release, vary or modify the easement. Henceforth, the right of carriageway is to be relocated to match the profile of the proposed internal access road, titled Road No.1. As such, access is retained to 15 Benson Avenue, Shellharbour City Centre. Conditions are recommended to address the removal of the restriction of use of land.

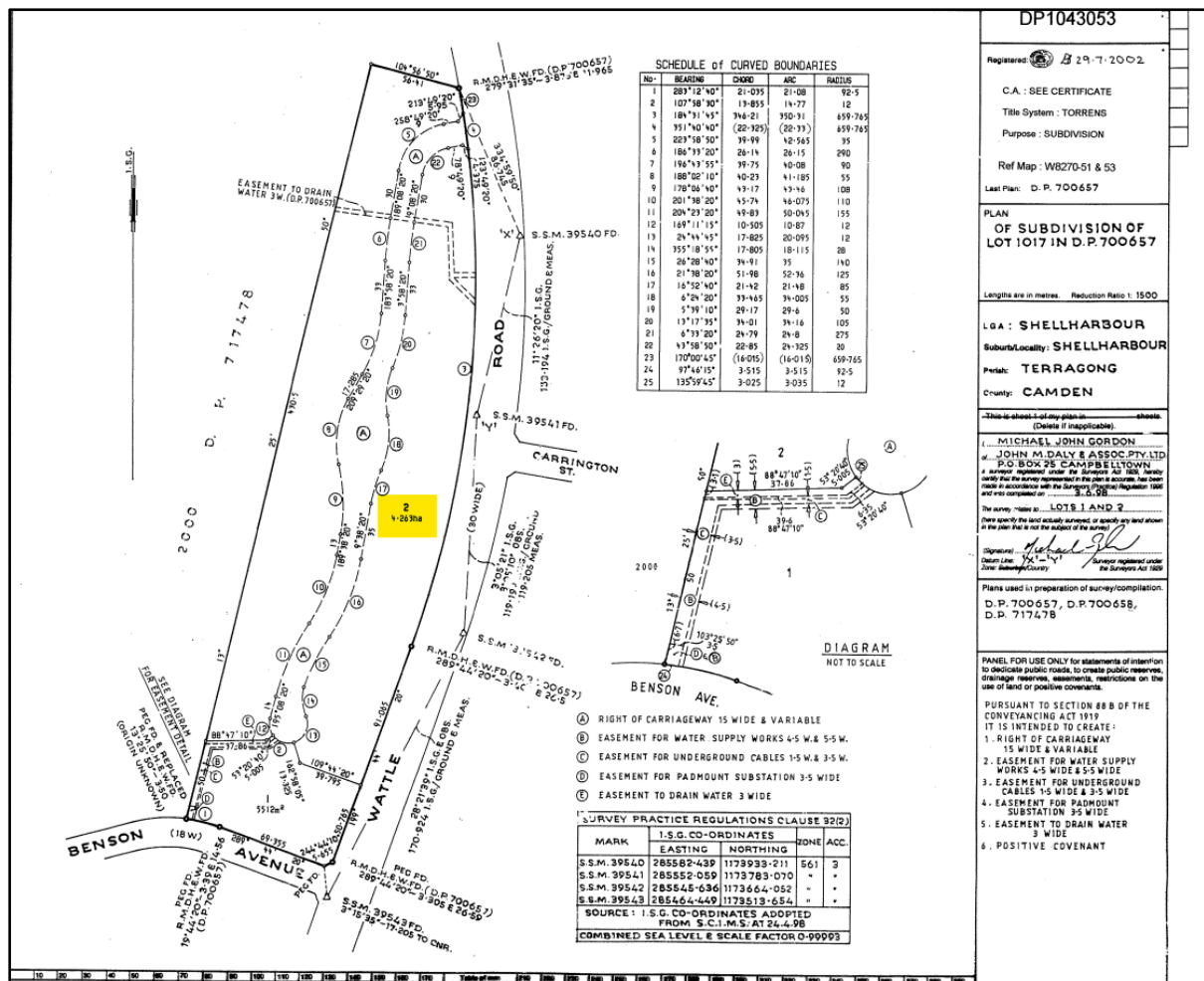


Figure 2: Deposit Plan extract Lot 2 DP 1043053

1.4 The Locality

The site is located within the Shellharbour City Centre and is within a 400m radius of the Shellharbour Stockland Shopping Centre, Shellharbour City Council Civic Centre, Shellharbour TAFE campus and the Shellharbour Hospital. Furthermore, the site is well connected to public transport routes, being within walking distance to bus stops along Wattle Road, Lake Entrance Road and College Avenue and Shellharbour Junction Train Station is located within 5km of the site.

The site forms part of the Shellharbour City Centre Commercial Development Masterplan, and is identified as Precinct M Eastern Residential – Wattle Road for high density residential living. Precinct M is located at the eastern edge of the City Centre and is identified as the transition site between the established low density residential context to the east and the town centre to the west, through the offering of diverse residential living and development.

The adjoining site immediately to the south is 15 Benson Avenue, which is community housing development owned by NSW Land and Housing Corporation. The eastern boundary of the site has a frontage to Wattle Road, with established residential development located along the opposite side of the road. Wattle Road serves as the natural boundary between the Shellharbour City Centre and the low-density residential development.

The adjoining site immediately to the north and north-west is a public reserve known as Benson Bason, which is Council owned land. To the west of the site, the western boundary is

shared between a vacant privately owned parcel of land, however a recent development application has been approved for the site and includes a future precinct development for residential flat buildings to occupy the site and stage 1 site preparation works (See Figure 3).



Figure 3: Subject site locality and existing development context

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposed development is for the construction of stage 1 of a senior housing development, which was approved under the conceptual development application, DA0331/2012 on 10 February 2014 (and any subsequent modifications), the application approved seniors housing development and ancillary uses. The application approved the following;

- building envelopes inclusive of roof plant and articulation zones for 11 separate buildings;
- 456 on-site parking spaces;
- a maximum gross floor area of 45,800m², which is made up of;
 - 352 self contained dwellings for seniors housing; and
 - Ancillary non-residential development



Figure 4: Concept Approval Site Plan

The development application proposes the demolition of all existing structures on the site, the removal of 16 x trees and the construction of four residential flat buildings comprising of 152 x independent living units and an associated club room and library, two levels of basement parking, associated landscaping and a new internal access road. The key details include:

- Demolition works:
 - demolition of the existing site access road that traverses through the site and provides vehicular access to southern site at 15 Benson Avenue, known as 'Davey Close'; and
 - removal of 16 x trees located within the site and within the Council Road reserve.

Note: the proposed demolition works are to be carried out across the whole site, and are not exclusively associated the stage 1 portion of the site.

- Construction works:
 - delivery of a new site access road to replace the existing right of carriageway, enabling vehicular access to 15 Benson Avenue;
 - construction of stage 1 buildings which comprise of four residential flat buildings, known as R1, R2, R3 and R4;
 - within the four residential flat buildings, the provision of 152 x independent living units;
 - 32 x 1-bedroom units
 - 101 x 2-bedroom units
 - 19 x 3-bedroom units
 - communal facilities, namely a club room and library in Building R3;

- three administration offices within Building R3;
- two levels of basement car parking to provide 149 x on-site parking spaces
- eight on-street parking space along the internal access road (Road No. 1);
- landscaping and tree planting;
- associated earthworks and excavation associated to the basement car parking and cut and fill; and
- stormwater drainage and utility connection.
- Ongoing operation:
 - 10 x staff working throughout the site;

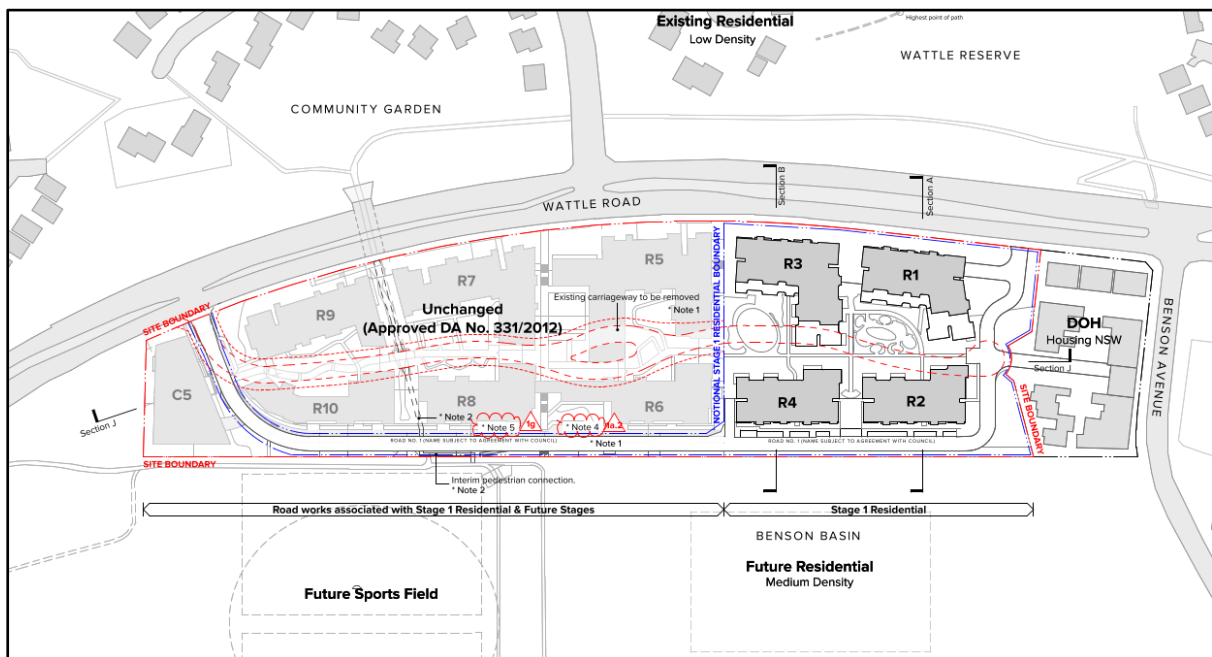


Figure 5: Stage 1 Site Plan



Figure 6: Building R3 along Wattle Road



Figure 7: Central Courtyard and R3 eastern elevation

Table 1: Development Data

Control	Concept Approval	Proposal – Stage 1 Development
Site area	42,600m ²	Stage 1 Area 19,012.1m ² (Inclusive of site road)
GFA	45,800m ²	17,608m ²
Clause 4.6 Requests	Not Applicable – The Concept Approval prevails over the <i>Shellharbour Local Environmental Plan 2013</i> , specifically floor space ratio, minimum lot size and height of buildings.	
No. of apartments	352	152
Max Height	20m	20m
Car Parking spaces	456	157 car parking spaces: - 149 basement parking - 8 visitor on-street parkin
Setbacks	Wattle Road – 7m Western Boundary – 15.8m	Wattle Road – 7m Western Boundary – 15.8m

2.2 Background

2.2.1 Concept Approval

The development application DA0331/2012 for the concept approval for a seniors housing development, with ancillary non-residential development was lodged on 8 October 2012 and the proposal was subject to pre-development discussions with Council via the preparation of the Precinct Development Strategy (PDS). The development received concept approval on 10 February 2014.

2.2.2 Post Consent Prelodgement Advice – PR0075/2016

A pre-lodgement meeting was held following the determination of DA0331/2012 on 12 October 2016, prior to the lodgement of subsequent staging development applications for the concept approval. As specified within the notice of determination, Condition No. 4 - Limits on the Consent; the '*consent does not authorise the components of the Concept Approval to be carried out without further approvals or consent being obtained*'. As such the pre-lodgement meeting PR0075/2016 held to discuss the following:

- future staging of the seniors housing concept proposal approved by the Joint Regional Planning Panel;
- identify site facilities / infrastructure required for each stage; and
- identify possible planning issues and relevant documentation to be prepared.

Councils' advice included the following:

- future staging of the development – Described the lodgement of a Stage 1 civil works development application for the earthworks, associated retaining walls and the relocation of the internal road;
- Submission of a staging Plan with ancillary services - Council requested a staging plan, which included indicative time frames and details as to how each stage would function to satisfy relevant statutory requirements, planning provisions and the applicable conditions of consent as per DA0331/2012;
- pedestrian access – Specified subsequent development applications to retain pedestrian access through the site and the management of such; and
- a list of lodgement documentation required for subsequent development applications.

2.2.3 Assessment and Determination of DA0120/2018

Following the concept approval determination, and associated pre-lodgement meeting, DA0120/2018 - *Stage development: Earthworks for Stage One of the Site Only – Provisions of a New Road and Roundabout in Stage One with Temporary Batters and Temporary Stormwater Connection to Existing Infrastructure Beneath Road* was lodged on 20 April 2018 and development consent was issued on 12 September 2018.

Modification applications were lodged for DA0120/2018., See **Table 2** below, which includes post consent certification:

Table 2: Chronology of Earthworks Development Application DA0120/2018, Modification and Post Consent

Reference No.	Development Scope	Date	Decision
DA0120/2018	Staged development: Earthworks for Stage One of the Site Only – Provisions of a New Road and Roundabout in Stage One with Temporary Batters and Temporary Stormwater Connection to Existing Infrastructure Beneath Road	12.09.2018	Approved
DAM0093/2018 (Part 2) DA0120/2018	Stage 1 – New Internal Road, Civil and Drainage Works Modify condition 8b and proposed new drainage solution	14.03.2019	Approved
DAM0094/2018 (Part 3) DA012/2018	Stage 1 – New Internal Road, Civil and Drainage Works Modify condition 5 and condition 6	14.05.2019	Approved
CC0072/2019	Stage 1 Roadway and Layback Excluding Stormwater	04.02.2019	Approved
OCC0544/2019	Interim Occupation Certificate – Footpath and driveway layback only. OCC excludes roadway and works within the allotment boundary	09.08.2019	Approved

2.2.4 Pre-lodgement Advice – PR0026/2023

A further pre-lodgement meeting PR0026/2023 was held 22 August 2023 to discuss a modification application to DA0331/2012 and the detailed design and built form of the stage 2

portion of the seniors living development at subject site, noting stage 1 pertains to earthworks. The pre-lodgement meeting discussed the following:

- proposed Section 4.55(2) modification to DA0331/2012 and staged development for the construction of seniors living and associated works;
- proposed changes to the concept approval, specifically the building envelopes;
- applicable planning controls and determination authority for subsequent applications;
- commentary and feedback on the built form architectural design; and
- lodgement documentation for proposed modification and later development application.

Council's advice included the following:

- no objection to the principle of the proposed section 4.55(2) and concurrent development application for the stage 2 development for seniors independent living units as per the concept approval, and expressed both applications to be determined by Southern Regional Planning Panel in accordance with *State Environmental Planning Policy (Planning Systems) 2021*;
- furthermore, section 4.55(2) and stage 2 application to be referred to the Design Review Panel (DRP) for review and the meeting to be held prior to lodgement of relevant applications;
- the proposed modifications to the concept approval generally supportive as it was identified to result in an improve alignment with update planning provisions and controls, specifically the Apartment Design Guide and demonstrate a generally consistent design; and
- list of lodgement documentation required for subsequent development applications.

2.2.5 Design Review Panel

A meeting with the Design Review Panel DRP0005/2023 was held to discuss the modification application and subject development application for the stage 1 development for seniors living concurrently. The meeting was held on 30 October 2023 and the elected DRP panel members were generally supportive of the overall design and associated modifications to the concept approval, comments discussed within **Attachment F**.

2.2.6 Modification to Concept Approval – DAM0146/2024

Modification application DAM0146/2024 was lodged on 14 January 2025 and sought to amend the original concept approval. Specifically, the application sought to modify the stage 1 component of the concept approval to ensure that it aligned with planning instruments, specifically *SEPP (Housing) 2021* and the associated ADG (which have superseded planning provisions considered within the original assessment), that would be relevant to the forthcoming detailed design development applications.

The application was determined by the Southern Regional Planning Panel on 20 May 2025, following the determination meeting held on 14 May 2025. Henceforth, the current development application to address to the detailed design of stage 1 of the development is to comply with this approved modification to the concept approval.

The approved modifications included minor amendments to the stage 1 building envelopes, including the setbacks, building heights, building separation, basement entry location, number of units and parking spaces. Furthermore, the modification proposed the realignment of the

internal road, the road setbacks and the provisions of on-street parking along the western boundary. The modification also sought to include communal facilities within the stage 1 site boundary and reduce the level of excavation associated with the basement car parking area.

2.2.7 Assessment of DA0365/2024

The proposed development application was lodged 21 January 2025. A chronology of the development application since lodgement is outlined below in **Table 3**, including the Panels involvement (briefings etc) with the application.

Table 3: Chronology of the DA

Date	Event
21 January 2025	Development Application lodged
24 January 2025	Development Application referred to internal agencies
3 February 2025	Development Application referred to external agencies
13 February 2025	Public exhibition of the Development Application commences.
12 March 2025	SRPP Panel briefing.
12 March 2025	Public exhibition of the Development Application concludes Two (2) submissions received
19 March 2025	Internal referral meeting held between relevant Council departments to discuss proposed development application and concurrent modification application.
1 April 2025	Request for Information (RFI) from Council to Proponent (CI 104 of the EP&A Regulations 2021), which requested the following information: • Clarification sought in relation the construction management plan, specifically pertaining to the provision of ongoing access to the neighbouring site 15 Benson Avenue, Shellharbour City Centre and the use of the shared path connecting to the pedestrian underpass during construction; • Retaining wall details in relation to the location and treatment of the retaining walls along the boundary interface; • Further information required in reference to the car parking design, including the allocation of parking within the basement, parking dimensions to support seniors living and the end users, the identification of EV charging bays and commentary on the parallel parking spaces proposed along the internal access road;

	• Vehicle entry and exit required further information in relation to the vehicle access arrangements, how large vehicles would be prevented from using the southern access, swept paths for access to 15 Benson Avenue and clarification of vehicle speeds employed to determine the swept paths; • Overland flow paths and the proposed stormwater design and management plan, as insufficient detail provided that did not detail adequate conveyance of overland flows during storm and flooding events; • Downstream stormwater network capacity and compliance check. Proponent requested to perform a check of existing stormwater infrastructure being utilised by the site to discharge to Benson Basin; • Discrepancies presented throughout the lodgement information and documentation identified in relation to the tree removal and retention. Clarification sought in relation to the proposed tree removal to demonstrate a consistent removal scope of works; and • Finally, noting the concurrent modification application DAM0146/2024, request for information letter issued was to be read in conjunction with request for information letter issued for DAM0146/2024 dated 30 March 2025 and all plans to correlate. Council granted 21 days to respond to letter.
8 April 2025	Meeting between Proponent and Council to discuss RFI letter from Council.
16 April 2025	Site visit with SRPP panel members.
30 April 2025	Council granted Proponent further time to address the matters raised within the RFI letter dated 1 April 2025. Council amended the response date to 30 May 2025.
6 May 2025	Council issued an addendum to the initial RFI letter dated 1 April 2025. An updated Request for Information (RFI) from Council to Proponent (CI 104 of the EP&A Regulations 2021), which requested the following information to be addressed in addition to the outlined outstanding matters: • Internal dimensions and gross floor area; a suite of plans and supporting table to be provided in which demonstrate each apartment internal gross floor area to ensure compliance with 4D-1 of the Apartment Design Guide (ADG); and • Amendments to the internal layout of the four buildings identified in reference to the acoustic privacy, to improve compliance with section 4H-1 of the ADG. As such, entry doors associated to the independent living units in that were direct

	connected to internal noise sources were to be redesign.
5 June 2025	Proponent submitted an amended set of plans and associated documentation, including the following: • Civil Earthworks Plans • Stormwater Plans • Civil Statement • SEPP (Housing) 2021 Compliance Table • Update Construction Management Plan • Updated Architectural Design Report • Updated Development Schedule • Traffic Statement • Updated Traffic Impact Statement • Letter to Homes NSW
6 June 2025	Internal re-referral sent to the following: • Engineering • Environment • Waste
13 June 2025	Proponent submitted amended architectural plans following technical errors in the NSW Planning Portal.
26 June 2025	Proponent requested opportunity to submit amended plans in which would supersede the amended architectural plans received 13 June 2025. Proponent expressed amendments to the façade design were required, to improve the longevity of the built form.
30 June 2025	Council granted Proponent opportunity to submit amended architectural plans, in which reflected the desired character and external material treatment. Council advised the submission package received on 5 June 2025 had not addressed the environmental concerns pertaining to tree removal. As such, when Proponent lodges the amended plans, information resolving the discrepancies with the tree scope of works to also be included and resolve the outstanding matter.
2 July 2025	Council requested Proponent to submit revised architectural plans and resolve the outstanding tree matters by 18 July 2025.
18 July 2025	Amended plans received which resolved tree removal issue.
26 August 2025	SRPP Determination Meeting.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)
- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*

- *Shellharbour Local Environmental Plan 2013*
- *Shellharbour Development Control Plan 2013*
- *Apartment Design Guidelines (ADG)*
- *Uniting Care Ageing Precinct Development Strategy*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

Table 4: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 and Clause 3 of Schedule 6 as it comprises as the development has an Estimated Development Cost (EDC) greater than \$30 million. Furthermore, the application is reliant upon connection to Council drainage infrastructure located within the immediately adjoining site 191 Wattle Road, henceforth is considered to be Council related development over \$5 million, in accordance with Clause 3.	Yes
SEPP (Housing) 2021	A complete and comprehensive assessment against the provisions of the <i>SEPP (Housing) 2021</i> has been completed, see Attachment A. Chapter 3 Diverse Housing The proposed development application is consistent with Part 5 - Housing for senior and people with a disability, as the development pertains to the delivery of stage 1 of seniors housing in accordance with the modified concept approval. The proposed development is consistent with the definition of senior and the respective development standards, being a suitable site for such development. Relevant conditions included within the draft notice of determination are to be imposed for the restrictions on the title to reflect the requirements of dedicated seniors housing for the development at the site. The proposed development is compliant with cl 108 <i>non-discretionary development standards for independent living units</i>, namely the landscape requirements, deep soil, solar access and private open space requirements. As the subject application is governed by a concept approval, the application remains consistent with the approved density, GFA, building heights and parking provisions. Noting, the proposed parking exceeds the required numerical value for a registered social housing provider. Henceforth, the proposed development is consistently aligned with the provisions specified with Chapter 3.	Yes

	Chapter 4 Design of Residential Apartment Development The proposed development presents the 152 x ILU in the form of four residential flat buildings located within the stage 1 portion of the subject site. The arrangement evenly distributes the apartments between the four buildings, and includes communal facilities for the future residents. The proposed development has been referred to the Shellharbour Design Review Panel for comprehensive assessment and analysis of the design of the four RFBs. The DRP were generally supportive of the proposed design. The proposed development is compliant with cl 148 <i>non-discretionary development standards for residential apartment development</i>. The proposed design of the stage 1 residential apartment buildings is compliant with the minimum internal dimension requirements, rather provide a greater area that stipulated for all units, and the ceiling heights are compliant. It is noted, the parking provisions outlined within referenced clause are superseded by cl 108, however irrespective of the provisions outlined with the instrument the modified concept approval prevails and the parking to be delivered within stage 1 is consistent with the modified concept approval. A comprehensive assessment against the Apartment Design Guidelines has been completed, see Attachment B. Schedule 4 Standards concerning accessibility and usability for hostels and independent living units The proposed development is generally consistent with the standards relative to accessibility and usability for independent living units, and or is capable of complying. However, the car parking design in terms of the delivery of accessible parking spaces in accordance with the Australian Standards 2890.6 is reduced. Item 4 specifies 65% of the parking spaces to accommodate accessibility, however as the design provides a greater yield of parking that required by cl 108, the 31-x dedicated accessible parking spaces are considered to be satisfactory as the overall outcome is improved through the inclusion of an additional 126.6 parking spaces as measured against the minimum yield (30.2 as per subsection j). The relevant conditions imposed. Schedule 8 Design principles for seniors The proposed development is consistent with the design principles for seniors housing. The design of the built form is suitably scaled to the site, and the existing urban fabric, while promoting the desired design outcome and material nature of the Shellharbour City Centre. The porous design and openness, promoted through the setback arrangement and building separation creates connection through the site. Noting the transitional nature of the site, connecting the City	
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	Centre to the lower density established residential context, the proposed presentation is recognised to allow for synergy between the density. The proposed external pallet in conjunction with the landscape design is an integrated approach, which marries the natural land formation of the local context, connecting the coast to the escarpment. The visual and acoustic design, solar access and design for the climate aligns with the principles, and noted to be a design of high distinction in the is regard. Similarly, the design is consistent with the environmental design principles relating to crime prevent and accessibility. The design is inclusive of all levels of mobility and promotes a high level of passive surveillance. The stormwater design is of sufficient capacity to cater to the proposed density and capacity, much like the ongoing waste management capabilities. Schedule 9 Design Principles for residential apartment development An assessment has been completed in terms of the design principles for residential apartment development, and the proposal aligns with all respective principles and associated expectations. As noted, the design is responsible to the site and the wider context. The design of the four buildings is reflective of the natural topography and is anticipated to positively contribute to the public domain. The built form and scale are sympathetic to the Shellharbour City Centre and endorsed precinct design strategy, and the density is reflective of the context, being an adequate placement for senior housing. The future amenity of the site is expected to promote functionality and liveability both internally and externally, within the private residential spaces and communal areas. In conjunction with the highly amenable design, the design to allow for a high level of natural passive surveillance to enable a safe and secure environment.	
SEPP (Resilience & Hazards) 2021	Chapter 4: Remediation of Land Section 4.6 - Contamination and remediation has been considered in the Geotechnical Site Investigation and the proposal is satisfactory subject to conditions.	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure Section 2.121(4) - Traffic-generating development The development application was referred to Transport for NSW (TfNSW) under section 2.122 Traffic-generating development, in accordance with Schedule 3, column 1 as the concept development approved 352 self-contained dwellings:	Yes

	• it is acknowledged the, subject development scope pertaining to stage 1 does not meet the threshold for referral and this has been reflected within the referral received from TfNSW as no objection was received; • referral advice considered the conceptual development, concurrent modification application and subject development application; and • TfNSW offered no objection to the proposed development and note the parking and traffic design through the site is complementary and reflect of the stage 1 development.	
State Environmental Planning Policy (Sustainable Buildings) 2022	The proposed development is classified as a BASIX building in accordance with the <i>Environmental Planning and Assessment Regulations 2021</i> . As such the proposed development is classed as BASIX development. In accordance with section 71 of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> a BASIX Certificate has been submitted in support of the application demonstrating that the development meets the BASIX requirements.	Yes
Shellharbour Local Environmental Plan 2013	The proposed development is generally consistent with the applicable provisions of the SLEP 2013. The proposal for seniors housing is permitted with consent within the R3 Medium Density Residential Zone. In accordance with section 4.24 of the <i>Environmental Planning and Assessment Act 1979</i>, the provision of the modified concept approval prevails in relation to cl 4.3 and 4.4. The maximum height of buildings for the site is 12m, and the FSR is 0.7:1, of which both of which are superseded by the development standards approved by the modified concept approval. A complete assessment against the provisions of the SLEP 2013 found within Attachment C.	Yes
Shellharbour Development Control Plan 2013	An assessment against the Shellharbour DCP 2013 has been completed and found within Attachment D. Chapter 7 Shellharbour City Centre Commercial Development The site is located within the Shellharbour City Centre, specifically is identified as Precinct M – Eastern Residential Wattle Road. The proposed design of the stage 1 development for seniors living is consistent with the overall development controls for the City Centre and the respective precinct. Chapter 13 Parking, Traffic and Transport The proposed development to deliver 157 x on-site parking spaces, which is a surplus in on-site parking in accordance with the parking rate specified within Table 13.1 of the SDCP	Yes

	2013. The parking within stage 1 enables adequate parking for future residents and staff, furthermore all the available spaces are compliant with the minimum parking dimensions in accordance with the Australian Standards - AS2890.6. A Traffic Impact Assessment has been prepared and includes swept path analysis of which note sufficient manoeuvrability through the site for the relevant vehicles, inclusive of 85th percentile vehicle, B88, and MRV. Furthermore, analysis has been completed to ensure access of an MRV to 15 Benson Avenue remains achievable. Chapter 15 Waste Minimisation and Management The waste management plan has been included and considered within the assessment. A demolition and construction waste management plan has been submitted, in conjunction with an ongoing operational waste management plan. The management plans assess the waste generation, impacts and capacity at all stages, all of which are compliant with the associated waste management scheme and standards. Chapter 16 Access for People with a Disability The proposed design is inclusive of all levels of mobility. An Access Report prepared by Purple Apple Access prepared, and notes the design is compliant with the legislative requirements for accessibility. The relevant conditions to be imposed within the draft notice of determination to ensure compliance with Schedule 4 of the <i>SEPP (Housing) 2021</i>. Chapter 17 Crime Prevention through Environmental Design The design is a porous and open to allow connectivity between the site, and the Shellharbour City Centre. The setbacks and building separation enable the openness, as such reduce the opportunity for concealed spaces and promote a high level of passive surveillance. A high level of observation of the communal open space is noted and is expected to facilitated during day and night due to the proposed lighting design. The design does not include fencing or large expanses of blank walls, as such there is limited opportunity for graffiti. Chapter 20 Landscaping A conceptual landscape plan accompanied the application, including landscaping sections to assess the dispersion of planting across the site. Conditions have been included to improve the Landscape Design, to ensure sufficient offset planting of endemic native species is completed to mitigate the tree removal. Furthermore, greater detail of the proposed species is required to ensure sufficient planting and canopy coverage, particularly to ensure compliant in accordance with 4O-1 of the AGDs.	
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	Chapter 23 Cutting, Filling and Retaining Walls The proposed significant earthworks notably, cut and fill that is greater than 1m as such the design present a departure from section 23.1.1 and 23.1.2, however due to the scope of the development and natural topography the earthworks are fundamental to support the proposed development. A bulk earthwork plan has been submitted and considered to be acceptable on merit. The building envelopes and stepped nature of the stage 1 built form is reflective of the cross fall, as such an acceptable design. Chapter 24 Floodplain Risk Management The western aspect of the site is mapped as flood affected land; the modified concept approval sought consent to increase the floor levels to suitably address the flood affectation. As such the proposed development is consistent with approved finished floor levels. Chapter 25 Stormwater Management Council Engineering Officers has considered the proposed stormwater management plan and determined the proposal is consistent with the scope and capacity of the stage 1 development. The site falls away from the street, the stormwater connection to Council system located within Council owned land known as Benson Basin at 191 Wattle Road. Connection to the Council stormwater network acceptable in accordance with the modified concept approval.	
Uniting Care Ageing Precinct Development Strategy (PDS)	The subject site is identified as Precinct M Eastern Residential – Wattle Road in accordance with Chapter 7 of the Shellharbour DCP 2013. The PDS was endorsed by 15 May 2012, prior to the lodgement of the concept approval. As such the original concept approval was assessed in line with the recommendations and provisions outlined within the strategy. The concept approval, and thus the modified concept approval remained generally consistent with the PDS. Henceforth, the stage 1 development is consistent and compliant with the modified concept approval. A complete assessment found within Attachment E .	

State Environmental Planning Policy (Housing) 2021

The proposed development for the construction of stage 1 for a seniors housing development in the form of four residential flat buildings aligns with Part 5 Housing for seniors and people with a disability. The development is consistent with the modified concept approval and does not amend the approved land use being seniors housing, which is permitted as the site is zoned R3 Medium Density Residential. Furthermore, the site is consistent with clause 84 development standards – general and is a satisfactory site for the proposed independent living for seniors. The application is consistent with Division 4 site-related requirements, the site is well located to existing facilities and services, and public transport networks.

The proposed development application is consistent with the development standards outlined within Clause 108 Non-discretionary development standards for independent living units.

Within **Attachment A**, it is noted the proposed stage 1 development achieves compliance with the development standards, noting future stages of the proposed development are to be lodged following the delivery of stage 1. It is anticipated the overall development as per the modified concept approval for the delivery of 352 x independent living units and a range of ancillary uses will be compliant with the respective parameters.

In accordance with Schedule 4 - Standards concerning accessibility and useability for hostels and independent living units, the application is generally compliant. An access report has been included within the lodgement information and demonstrates that the design is satisfactory and capable of complying with the relevant design and construction standards. Relevant conditions have been imposed to ensure the construction is in accordance with the respective Australian Standards.

Chapter 4 - Design of residential apartment development of the *SEPP (Housing) 2021* has been completed as the seniors housing is presented in the form of four residential apartment development. As detailed within section 2.2.5 of report and within **Attachment F**, the application was referred to the Design Review Panel for commentary and consideration, of which the appointed panel granted a satisfactory response. The proposed development application is consistent with the development standards outlined within Clause 148 non-discretionary development standards for residential apartment development.

Within **Attachment A**, consideration and assessment of schedule 4, schedule 8 and schedule 9 have been measured against subject application and it is deemed complimentary with the parameters included.

Consideration of the Apartment Design Guidelines (ADG) has also been undertaken (see **Attachment B**). It is noted that the development application presents a generally compliant design with regard to the recommended standards. Minor non-compliances are noted and a merit-based assessment has been completed. The following provisions are noted to be inconsistent with the guide, noting the specifications included is a guiding document;

- Objectives 2E - Building Depth, outlines the maximum building depth to be 12 – 18m and the arrangement of all stage 1 buildings exceed the outlined depth. It is expressed that the stage 1 design is consistent and aligns with the approved building envelopes approved under the modified concept approval. The sites irregularity in form and significant topography is deemed a contributing factor that has influenced the stage 1 built form depth. Although the design of the stage 1 buildings are sympathetic to the site parameters and constraints in this regard. The depths are considered to be acceptable, noting the superior outcome via the stepped design of the building envelopes to respond to the site land formation. As such, the design variation is noted to be acceptable as the arrangement is not considered to hinder or compromise the amenity, namely the opportunity for solar access or cross ventilation.
- Objective 2F - Building Separation outlines a distance of 12m between habitable rooms and balconies, however the proposed development presents reduced separation between the stage 1 buildings. The concept approval granted consent for a separation design of 9m between the buildings and the approved modification application sought consent to increase the separation to align with updated planning provisions and development controls, and guides. The separation arrangement approved under the modification application for the concept approval and thus subsequent stage 1 development application notes reductions in separation, however all being greater than 9m as per the original assessment and separation provisions. A detailed assessment was completed and noted

suitable design mitigations through the inclusion of screening, room and balcony orientation and landscaping demonstrates the impacts are within reasonable limits, and do not compromise visual privacy. The arrangement governed by the modified concept approval and addressed via the inclusion of high level design mitigation measures to produce a visually pleasing and positive outcome, whereby future residents have adequate visual and acoustic privacy.

- Objective 3F-2 - Visual Privacy outlines the minimum separation distances from buildings to the side and rear boundaries, and much like the above highlighted objectives, the design presents a departure to the recommendations between the internal staged boundary. The setback arrangement between the east, west and southern boundary is compliant, rather than exceed the minimum measurements. However, the northern stage 1 building (R3 and R4) are located 6 – 6.25m from the proposed internal boundary between stage 1 and future stages. The concept approval noted a separation distance of 9m between Buildings R3 and R5, and Buildings R4 and R6, however it is anticipated the setback distances may be modified further. Notwithstanding, the use of screening, obscure window glazing, orientation of balconies and rooms, the window design and landscaping around the site perimeter to suitably protect the visual amenity and prevent direct overlooking.
- Objective 4A-1(3) - Solar and Daylight Access requires a maximum of 15% of apartments to receive no direct sunlight during mid-winter. The design of the stage 1 buildings notes 43 x of the 152 x units will not receive 2 hours of continuous solar access between 9am – 3pm during winter, rather to receive broken solar access through the course of the day. As such the impacted units to receive some sunlight, which is a preferred outcome, being the superior design rather than some units receiving no solar opportunities. Furthermore, as stage 1 is located at the most southern portion of the subject site, the overall solar access design is anticipated to only improve across later stages.
- Objective 4D-2(2) - Apartment Size and Layout notes in open plan arrangement the maximum habitable room depth is 8m from a window, of which 51.9% of units do not comply. However, the layout ensures the environmental performance is maximised through alternative window and or balcony openings. While the separation may be greater than 8m, the opening opportunity is offset through the inclusion of multiple sources. Furthermore, the window design deemed satisfactory as larger openings are proposed, as a manner to mitigate the room depth.

Overall, the variations are considered to be minor and or suitably offset through the appropriate design solutions to reduce the impact and implications on the amenity or liveability.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

The original development application was declared to be regionally significant development in accordance with Part 3 of Schedule 4A of the *Environmental Planning and Assessment Act 1979*, as the proposed development proposed a Capital Investment Value of \$119,000,000. The original development application was determined by the Joint Regional Planning Panel.

The proposed development is declared regionally significant development pursuant to section 2.19 (1), Clause 2 and 3 of Schedule 6 of the *SEPP (Planning Systems) 2021* as the proposal is development that has an estimated development cost of more than \$30 million, and Council related development over \$5 million. Accordingly, the Southern Regional Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* have been considered in the assessment of the development application. Section 4.6 of *SEPP (Resilience and Hazards) 2021* requires consent authorities to consider whether the land is contaminated. Council records provide no evidence that the site is contaminated.

A Geotechnical Site Investigation and Ground Inflow Assessment report prepared by Tetra Tech Coffey has been prepared for the stage 1 component of the development, which determined that no groundwater was observed within the boreholes and test pits during drilling and that the site not identified to be contaminated. Rather, testing of samples collected revealed that the alluvium and residual soil have relatively low swell and shrink and is therefore suitable to be reuse as fill material.

Henceforth, for the purpose of the proposed development for seniors housing in the form of four residential flat building, the site is suitably satisfactory to support the proposed development without mitigation works or the like.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The application was referred to Transport for NSW (TfNSW) in accordance with section 2.122 Traffic-generating development, noting the proposed concept development to be classified as such as per Schedule 3, column 1. The modified concept approval grants consent for the delivery of 352 x independent living units, thus considered to qualify against the threshold, as such a referral to TfNSW. However, the modified concept approval is to developed in stages, and stage 1 seeks consent for the construction of four residential flat buildings, comprised of 152 x independent living units. Therefore, the subject development scope pertaining to stage 1 does not meet the threshold for referral and this has been reflected within the referral received from TfNSW as no objection was received.

State Environmental Planning Policy (Sustainable Buildings) 2022

The proposed development is classified as a BASIX building in accordance with the *Environmental Planning and Assessment Regulations 2021* and the proposed development is classed as BASIX development. In accordance with section 71 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* a BASIX Certificate has been submitted in support of the application demonstrating that the development meets the BASIX requirements.

The proposed development is compliant with the sustainability practices and objectives specified within the respective legislative framework, and the thermal comfort, water and energy uses is deemed acceptable for the proposed development scope.

Assessment against the sustainability provisions specified within the adjacent legislation and guides, including the *SEPP (Housing) 2021*, Apartment Design Guidelines, and DRP comments and advice is also noted to be satisfactory.

Shellharbour Local Environmental Plan 2013

The current local environmental plan applicable to the site and future associated development applications that are applicable to the site is the Shellharbour Local Environmental Plan 2013 ('the LEP 2013').

Permissibility and Zone Objectives (Part 2)

The site is zoned R3 Medium Density Residential under the provisions Shellharbour LEP 2013.

The proposed development application is not amending the approved land uses as per the modified concept approval, as detailed above. Senior housing is permitted with consent within the R3 zone.

The proposed development remains consistent with the objectives of the R3 Medium Density Residential. The zone objectives include the following (pursuant to the Land Use Table in Part 2):

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

As detailed, the stage 1 development application does not amend the concept approval in terms of land use and the proposal is considered to be consistent with these zone objectives.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions.

It is important to note that the Concept Approval prevails to the extent of any inconsistencies between the SLEP 2013. Specifically, clause 4.3 and 4.4 of the SLEP 2013 are overridden by the development controls within the Concept Approval. Otherwise, assessment matters for consideration include:

Clause 1.9A Suspension of covenants, agreements and instruments – the site is burdened by a Right of Carriageway 15 Wide and Variable and traverse the site from the driveway crossover located at the northern end of Wattle Road and provides access to the immediately adjoining site to the south, 15 Benson Avenue. The restriction is to be extinguished and a relocated to Road No.1, retaining and facilitating access through the site to the Stage 1 buildings and 15 Benson Avenue.

- Clause 5.21 Flood Planning – the site is mapped as being flood affected land and the modified concept approval increased the finished floor level of the R2 and R4 stage 1 buildings to accommodate the level of flood affection associated to the site. The proposed finished floor levels demonstrated within the proposed design for stage 1 is consistent with the updated flood modelling. Council Flooding Engineer has considered the proposed development and denoted a satisfactory design.
- Clause 6.2 Earthworks – the proposed development seek consent for a substantial quantity of excavation to facilitate the proposed development, namely associated to the split-level basement. Councils Engineers have reviewed the amended bulk earthwork design and denoted a satisfactory civil design.

Uniting Care Aging Precinct Development Strategy – Precinct M

The proposed development is consistent with the modified concept approval, of which was assessed against the provisions of the PDS. Similarly, the stage 1 development application has been considered against the provisions of the PDS and is generally compliant.

The compositions and presentation outward to the public domain and adjoining sites is consistent with the outlined building types, offering the presentation of four storey to Wattle

Road and along the western boundary, with additional storeys associated to R1 and R3 concentrated internally.

The setbacks, which includes the articulation setbacks, are compliant with the provisions of the PDS. The PDS outlines a setback of 5m along the Wattle Road frontage and permits articulation elements to intrude into the 5m setback by up to 2m. Building R1 residential component to the setback 7m at the closest point, with the POS encroaches into the setback by 3m. Building R3 demonstrates the same setback pattern with the difference being an increased setback of 4.2m for the ground floor POS. The proposed setbacks of Buildings R1 and R3 along Wattle Road align with the specified within the PDS.

The PDS identifies Buildings R2 and R4 as building type B, and outline a setback 3-5m from the street boundary. The ground floor units are all setback over 5m from the internal access road, and setback 15.8m from the western boundary.

Finally, the modified concept approval approved a reduced number of on-site parking, as such the relocation of 9 x parking spaces within stage 1 to be located and available within later stages of the concept development is considered satisfactory as the cumulative total will remain.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments which have been the subject of public consultation under the *EP&A Act*, that are applicable to the subject site and proposed modification to the approved concept development application.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- ***Shellharbour Development Control Plan 2013 ('the DCP')***

The proposed development has been assessed the provisions within the applicable chapters and demonstrates a generally consistent design. A comprehensive assessment found within **Attachment D**, and the relevant chapters listed below;

- Chapter 7 – Shellharbour City Centre Commercial Development
- Chapter 13 – Parking, Traffic and Transport
- Chapter 15 – Waste Minimisation and Management
- Chapter 16 – Access for People with a Disability
- Chapter 17 – Crime Prevention through Environmental Design
- Chapter 20 – Landscaping
- Chapter 23 – Cutting, Filling and Retaining Walls
- Chapter 24 – Floodplain Risk Management
- Chapter 25 – Stormwater Management

The proposal does not present variations to development sections, with exception of Chapter 23, sections 23.1.1 and 23.1.2 pertaining to the level of cut and fill being greater than 1m. However, noting the significance of both the natural topography and scale of development, the excavation standard and limitation of 1m is restrictive and would hinder the design outcome. Finally, basement parking was approved under the modified concept approval, as such the departure considered to be rendered redundant by the prevailing provisions of the conceptual

design. The impacts of the earthwork have been considered and within reasonable limits, and to be supported by the necessary conditions of consent listed within the notice of determination.

A complete assessment is located under **Attachment D**.

- ***Shellharbour City Council Local Infrastructure Contributions Plan 2019 (9th Review)***

This Contributions Plan has been considered and as the application for senior housing development has been made by a registered social housing provider as defined within the *SEPP (Housing) 2021*, no section 7.11 Development Contributions are applicable. Under the Ministerial Direction dated 14 September 2007, Council is not permitted to impose a contribution towards infrastructure under section 7.11 whereby an application for housing is made by a social housing provider. As such no development contributions are applicable.

(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- Demolition of the existing road - provisions of AS 2601;
- Section 62 (consideration of fire safety) of the 2021 EP&A Regulation is applicable, and the relevant conditions imposed within the notice of determination.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the key Issues section below. The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is consistent with the context of the site, in that the proposed stage 1 development is consistent with the setting within the Shellharbour City Centre and the design is deemed appropriate and overall a positive outcome for the site and community at large, character and amenity of the locality and streetscape, scale, mass, form, character etc of surrounding development and potential impacts on adjoining properties.
- Access and traffic – The development application retains the proposed site access via two driveway crossovers positioned along Wattle Road. The access and traffic, parking and accessibility demands align with the modified concept approval. Notably, the proposed

available on-site parking cumulative total remains as per the modified concept approval. However, it is acknowledged the parking rate demonstrated within the stage 1 development surpasses the numerical parking rate of the Shellharbour DCP 2013 and *SEPP (Housing) 2021*, creating a surplus in onsite parking. Furthermore, the site is well connected to existing public transport networks and within walking distance (approximately 150m) of the Stockland Shopping Centre, which boasts a range of daily services and facilities. Road No. 1 continues to allow access to 15 Benson Avenue at all time, including throughout construction. Council Engineers and Council Traffic Engineers have considered the line making and traffic plan for the site, noting the southern driveway to be left in and left out and only permit residential access via this entry point, thus excluding larger vehicles due to the proposed driveway gradients required to accommodate the site topography. A referral issued to TfNSW noting the modified concept approval trigger referral under section 2.122 Traffic-generating development and a referral issued for subject application to ensure consistency and assurance all matters pertaining to traffic were consider. TfNSW raised no objection to the proposed development.

- Public Domain – The proposal is considered to improve and elevate the public domain. The site has been vacant and under-utilised since the lodgement of the original development application for the concept approval in 2012. The proposed development application will activate the public domain space and, rather present public domain opportunities that have not been available. The inclusion of pedestrian footpath connectivity along the Wattle Road interface and through the site will promote connectivity and activation of the space, enhancing the existing context. The continuation of the pedestrian footpath to be delivered in each corresponding stage.
- Utilities – The proposal has all utilities available within the site. The proposed staged development is not expected to intensify the overall impact and remains consistent as per the modified conceptual development. Conditions included to ensure sufficient connection to all utilities and services are established.
- Water/air/soils impacts – No adverse water, soil or air impacts are anticipated as part of the proposed modification. A geotechnical investigation was included within the assessment of subject development application and no evidence of contamination of alike impacts the site, noting the site has remained vacant and relatively undisturbed, and the proposed development do not trigger any additional contamination concerns.
- Flora and fauna impacts – The proposed development application seeks consent for the removal of 16 x trees. An Arboricultural Impact Assessment has been included within the assessment and Council Environment Officer has considered the assessment and noted the tree removal permitted. Under the scope of the modified concept application, the removal of the trees has inadvertently been granted and as such the stage 1 application to remain consistent with the provisions outlined within the concept for senior living. Notwithstanding that, the trees to be removed are a range of native species, however are not mapped or identified as endangered or critically endangered species. An offset planting ratio of 3:1 is recommended to mitigate for the loss and ensure the development adds positively to the biodiversity and ecological value of the area. Replacement trees are to be of eucalyptus species.
- Natural environment – A notable feature of the site is the natural topography, due to the significant fall from east to west by 12m and a further cross slope occurring from south to north by approximately 7m. The basement excavation associated to the stage 1 buildings, cut and fill across the site and retaining walls have been assessed in term of impacts, and noted to be acceptable on merit, required to create an accessible site that accommodates

to all levels of mobility. Additionally, the design of the stage 1 buildings protect the original response to the topography, offering a stepped terrace design that does not present as a bulky or over bearing built form to the streetscape and public domain.

- Noise and vibration – Construction and operational impacts are suitably mitigated through the imposition of relevant conditions of consent. An acoustic assessment included within the DA lodgement information and note all stages of development, demolition, construction and the ongoing capacity to be within reasonable limits. The acoustic amenity for the future residents to be in keeping with the typical residential noise impacts.
- Natural hazards – The site is flood affected and the modification concept approval sought consent to amend the floor levels of the stage 1 buildings (R1, R2, R3 and R4) to response to the updated flooding information and levels applicable to the site. The stage 1 development application reflects the amended floor levels required to address the flood affection. Council Flooding Engineer has considered the proposed application and deemed the levels a suitable and satisfactory outcome, addressing the flood affectation.
- Safety, security and crime prevention – The proposed development is considered to be design, which integrates CPTED practices and principles to ensure the safety to residents and security of the site. Ample opportunity for passive surveillance throughout the site is a key aspect, as the communal space between the east and west buildings is to be observed by the inward facing units, and the upper-level communal open space. The internal design of all the units captures views of all aspects, as such there is no interface that is blank or not articulated, thus satisfying passive surveillance and reduction in opportunity for property damages or graffiti. There are limited spaces or opportunities for antisocial behaviour and or concealed activity. The lighting detail included within the DA lodgement package note there will be ample lighting across the site, to ensure safety during the evening.
- Social impact – The concept approval provides greater diversity and offering of seniors living for the Shellharbour community. The proposed development is driven by market demands and demographic trends, to offer a specialised seniors housing development that is well connected to existing infrastructure and services. A range of apartment types and compositions are demonstrated, including affordable housing options to cater to all socioeconomic status.
- Economic impact – The proposal is expected to positively contribute to the economy through the generation of employment associated to both the construction of the senior's living development and in an ongoing capacity. Furthermore, the future residents will add to the economic growth being well connected to the Shellharbour City Centre, the economic hub.
- Site design and internal design – the proposed development application demonstrates a complimentary arrangement that is responsive of the site characteristics. The slope has been considered through the concentration of additional storey oriented internally to the site. The landscape space introduces important greening and separation between the buildings and public domain, offering further visual privacy to future residents. The internal road alignment created an improved arrangement through a consistent street pattern as a tree planting design is presented between the western boundary and Road No.1, to reflect a typical street tree planting scheme.
- Construction – The relevant conditions to be imposed within notice of determination, to ensure the construction does not unreasonably or negatively impact any adjoining sites or the public domain. Noise, waste and dust mitigation conditions to be included. In

conjunction with traffic and access conditions to ensure site access is available at all times for residents living at 15 Benson Avenue.

- **Cumulative impacts** – The proposed development is not anticipated to result in any adverse cumulative impacts. The development is consistent with the modified concept approval and the overall design presents a high level of amenity and functionality to the seniors housing development. The delivery of greater housing, that is well connected and located to established facilities and services is a promising and pleasing outcome for the site.

Accordingly, it is considered that the proposed development application will not result in any significant adverse impacts in the locality as outlined above.

3.3 Section 4.15(1)(c) - Suitability of the site

The proposed development is considered suitable for the site, and presents a proposal that fits within the immediate locality and wider context. The site is currently vacant and considered to be under-utilised, as such the proposed development activates the site and broader Shellharbour City Centre locale. The site is identified as Precinct M within the Shellharbour DCP 2013, which serves as the eastern edge of the Shellharbour City Centre and the offering of seniors living in the form of a residential flat building acts as a natural transitional marker between the higher density housing typology and town centre, and established low density residential. The proposal is well connected to the existing public transport networks and infrastructure, parking, open space and community facilities and services. Similarly, the site to offer a range of public services that will be accessed by future residents and the wider Shellharbour community.

The sites natural topography is a notable feature; however, the development is complimentary to the land pattern and the built form corresponds to the fall, implementing a stepped design. Additionally, the site is flood affected, which the modification application seeks to amend the finished floor levels and adequately address the natural hazard. Henceforth, the site attributes are generally conducive to the development and have been adequately addressed to present a measured development in which generates a cohesive development for the site, immediate and wider context. There are no adjoining uses that are considered inconsistent with the proposal, rather, the proposed development complements the city centre context.

3.4 Section 4.15(1)(d) - Public Submissions

Submissions are considered in Section 5 of this report.

3.5 Section 4.15(1)(e) - Public interest

The proposed development is considered to be in the public interest and this is noted as part of the comprehensive assessment of the proposed development. The application has consistently demonstrated alignment with the concept approval, relevant planning provisions and controls and has shown an updated design, which improves compliance with the SEPP (Housing) 2021 and the associated Apartment Design Guidelines. Noting the extensive history of the development and time passed between the concept approval, the amended design completed via the modification to the concept approval and thus actioned through the stage 1 development application is a commendable outcome for the site.

Furthermore, the stage 1 development for senior housing remains consistent with the Uniting Care Precinct Development Strategy (PDS) approved on 15 May 2012 and aligns with the

Shellharbour Development Control Plan 2013, Chapter 7, as the site is identified as Precinct M Eastern Residential – Wattle Road with the Shellharbour City Centre Master Plan. The modification application retains the approved use of the site for independent living units as seniors housing and ancillary non-residential uses. The site is well located within the Shellharbour City Centre, being within close proximity to the Stockland Shopping Centre, TAFE campus, Shellharbour Hospital, Shellharbour City Council Civic Centre and Public Transportation.

The site is currently vacant and the proposed development enlivens and activates Precinct M, adding in a positive manner to the economic and social benefits to the region and offering greater housing availability and diversity dedicated to seniors living, supported by ancillary uses which are available and accessible to the larger community. Similarly, the health and safety of the public and wider Shellharbour community is expected to be impacted in a positive manner as the development will add to the amenity, delivering a development that promotes a walkable and healthy site within the Shellharbour City Centre Master Plan.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application was referred to various agencies for comment/concurrence as required by the EP&A Act and Clause 109 of the 2021 EP&A Regulation and outlined in **Table 5**.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 2: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act) – N/A			
Referral/Consultation Agencies			
Transport for NSW	Section 2.122 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	No objection to the development.	Yes
Design Review Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP')	The advice of the DRP has been considered in the proposal, see Attachment F .	Yes
NSW Police	As per Shellharbour Community Participation Plan	No objection to the development.	Yes
Integrated Development (S 4.46 of the EP&A Act) – N/A			

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 3: Consideration of Council Referrals

Officer	Comments	Resolved
Business & Investment	Council Property Officer reviewed the development application and raised no objection.	Yes
Community Life	Notes for consideration included, however generally satisfactory response.	Yes
Contributions	No development contributions to be levied for a registered social housing provided, in accordance with provisions under the SEPP (Housing) 2021 and SEPP (Seniors Living) 2004. Council is not permitted to impose contributions toward infrastructure under section 7.11.	Yes
Engineering	Council's Engineering Officer reviewed the submitted stormwater concept plan, civil earthwork plans, construction management plan and swept path and access detail and required further amendments and clarification as to the design and impacts. Amended plans and supporting documentation in which resolved identified inconsistencies, and or required greater clarification required. Amended stormwater drainage plans, bulk earthwork plans, construction management plans, traffic impact assessment details, line marking and swept paths and architectural plans returned. Furthermore, the amended design to be consistent with the concurrent modification application pertaining to the concept approval DAM0146/2024, noting amendments were outlined in relation to the detail accommodated within the modification application. Outcome: Satisfactory subject to standard conditions to be imposed within notice of determination.	Yes
Environment	Council Environment Officer reviewed the submitted Arboricultural Impact Assessment (AIA), Architectural Plans, Demolition Plan, Landscape Plan and Statement of Environmental Effects and identified a range of inconsistencies between the proposed tree removal and retention proposed. As such, amended information required to express a consistent proposal in reference to the scope of works pertaining to the existing vegetation. An amended AIA and updated Architectural Plan submitted. Outcome: Satisfactory subject to standard conditions to be imposed within notice of determination.	Yes

Flooding	A conditionally satisfactory determination response provided. The amendments to the proposed finished floor levels and access road throughout stage 1 to demonstrate compliance with levels above the PMF plus 500mm freeboard.	Yes
Traffic	No objection to development scope. It was noted improved foot path and pedestrian connectivity is needed along Wattle Road and Benson Avenue. Footpath improvements was identified within the Shellharbour Active Transport Strategy adopted by Council in 2024 and such a development would further promote the need for such infrastructure.	Yes
Waste	Council Waste Officer reviewed the submitted Waste Mitigation and Management Plan, namely the Ongoing Waste Management Plan. The submitted plan to accommodate the waste generated within 152 x independent living units considered to be compliant.	Yes
GIS	A conditionally satisfactory determination response provided. Relevant house numbering and associated conditions have been recommended.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the Shellharbour Council's Community Participation Plan from 13 February 2025 until 12 March 2025. The notification included the following:

- notification on a website;
- notification letters sent to adjoining and adjacent properties (a rough estimate of the number of letters sent); and
- notification on the Council's website.

Council received a total of two (2) unique submissions, both of which were not opposed to the development, however requested consideration to a number of potential impacts, the issues raised in these submissions are considered in **Table 7**.

Table 4: Community Submissions

Issue	No of submissions	Council Comments
Site Access	1	Submission expressed concerns pertaining to exiting Davey Close, crossing to the right-hand lane along Wattle Road to travel to Shellharbour Village, and whether the access would be interrupted. However, the proposed development seeks consent to relocate the internal access road through the site, and the demolition of the existing internal access road cannot

		be completed until the construction of the proposed new road. As such residents of 15 Benson Avenue, will retain access at all times and the ability to turn right onto Wattle Road via the northern driveway crossover remains unchanged as does the traffic movement patterns. However, the southern driveway crossover to be left in and left out only. Submitter also questioned contact details in the event the Davey Close or Road No.1 is blocked, and whether such details to be available. As such a Principal Certifier will be appointed to manage the construction, as such will be responsible for ensuring the construction works are completed in accordance with the conditions, and ensure no adjoining site is negatively impacted. Details of the appointed certifier will be made available and are should the submitter need to express concern in relation to blockages or access. It is noted, Homes NSW has been advised by Proponent of the development and the scope of works, and is generally support and receptive to the development and works due to take place.
Traffic	2	Submission requested road upgrade works to Wattle Road, including the construction of slip lane and median island between the left and right lanes. However, this is outside the scope of works pertaining to subject development application. Council Traffic Engineer and TfNSW have reviewed the proposed development in terms of traffic impacts and implications and noted the development is satisfactory. Being suitably located, with sufficient traffic management measures and parking, to accommodate the development.
Construction Waste and Noise	1	Submission expressed concerns in reference to noise and dust created as a result of the proposed construction of the stage 1 buildings for seniors living. However, relevant conditions to be imposed within the notice of determination to limit the construction hours to ensure adjoining properties are not negatively impacts as a result of the development. Similarly, dust and construction waste are not to impact adjoining properties, as such the relevant conditions to be imposed within.
Privacy	1	Submission raised concerns pertaining to loss of privacy, however Buildings R1 and R2 are setback 15m from the southern boundary, which is greater than the requirements within 3F-2 of the ADGs. Furthermore, the setback increases from 15m to 30m due to the site irregular southern boundary.

		The landscape design demonstrates dense planting along the southern aspect of the site to enable further protection in terms of visual privacy. Finally, the window design and privacy screening to enable a high level of protection for residents living within the southern adjoining site, and for future residents at subject site. Conditions for improved fencing along the southern boundary recommended to improve the separation and privacy between the sites.
Overshadowing	1	Submission raised concerns with regards to overshadowing impacts. Council has considered the impacts, and notes some overshadowing impacts to be experienced within southern neighbouring site, however expected to receive the minimum of 3 hours of solar access as calculated between 9am – 3pm in mid-winter. The design of the site and separation between the stage 1 buildings enables a light corridor to emerge during the day to also mitigate the overshadowing impacts. The southern neighbouring site is oriented to the east and west, as such captures the sun to these aspects in the morning and afternoon.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

- Engineering Matters** – Councils Engineers sought additional information in relation to the stormwater design, retaining wall design and impacts, earthworks and access, and the construction management detail and plans. Furthermore, as the subject application was lodged concurrently with the modification application DAM0146/2024 which sought consent to implement minor modifications to the concept approval, inconsistencies between the subject proposal and modification were noted and required to be amended. Council Engineers sought clarification to the overall conceptual design to safeguard the suitability of the associated engineering matters throughout the progression of the development in an ongoing capacity to completion, thus stage 1 development and future stages. Once the Engineering matters were resolved within the concurrent modification application DAM0146/2024, refinements and updates, and clarification were made to the design of the subject application to ensure a consistent pattern between the modified concept and stage 1 development. Notably, as the site provides access to the immediately adjoining property to the south, 15 Benson Avenue, Council Engineers required greater detail on the construction management detail and plans to ensure ongoing provision for access was enabled at all times. Proponent provided the necessary engineering detail to ensure both vehicular access and pedestrian access is retained. Another fundamental

aspect noted pertaining to the vehicle entry and exit from the property and proposed traffic patterns and available movements throughout the site. Insight was sought namely in relation to vehicle access from the southern access point and the manoeuvrability along the southern portion of Road No.1. Following a meeting with Council and the Proponent an acceptable solution was derived from the discussion, being viable and sustainable in an arrangement that did not compromise functionality. As such, the engineering matters have been resolved and relevant conditions have been recommended within the draft notice of determination.

- Environmental Matters – Councils Environment Officer sought clarification in relation to the proposed tree removal and retention as discrepancies between the plans and documentation were identified. Councils Environment Officer noted the Arboricultural Impact Assessment (AIA) proposed 14 x trees to be removed, however the Demolition Plan and Statement of Environmental Effects presented a varied removal scheme. As such, clarification was sought to ensure accurate tree removal. Proponent updated the documentation to articulate a clear tree removal plan, which included removal of trees located within the Council nature strip along Wattle Road adjacent the stage 1 portion of the site. Consideration of the capacity and viability to retain Council trees was undertaken; however, it was understood within the assessment of the concept approval DA0331/2012, that's Council referral completed by the Technical Landscape Officer stated 'existing trees nominated for removal is satisfactory' and the original Landscape Plan annotated subject Council trees to be removed. As such, all 16 x nominated trees both within the subject site and on Council land are permitted to be removed, in accordance and alignment with concept approval and provided documentation. An offset planting ratio of 3:1 has been recommended within the draft notice of determination to ensure the tree loss is suitably accommodated, and the biodiversity value of the site contributes positively to the wider ecosystem and community.

In accordance with cl 147 of the *SEPP (Housing) 2021*, Council to considered the Apartment Design Guidelines (ADGs) within the assessment for residential apartment developments. Council has completed a comprehensive assessment against the design objectives and recommendations expressed within the ADGs and concluded a generally satisfactory design. Most notably, all 152 x independent living units located within the stage 1 site exceed the minimum requirements for internal dimensions, and POS dimensions. The apartment typology is considered to reflective of the market needs and social demands, offering a mix of units that all exceed the minimum internal areas to create functional and practical living space for seniors to enjoy.

In conjunction with consideration of the ADGs, the Seniors Living Design Guide has been considered, as per division 5, Part 5 of the *SEPP (Housing) 2021*. As such, it is noted the internal arrangement of all units is complementary to the design objectives listed within the Senior Living Design Guide. The overall design is anticipated to create spaces in which provides seniors with autonomous living, complemented by a sense of safety and community. Furthermore, the internal design of the units is supported by the opportunity to explore and enjoy a variety of communal spaces, both internally within the clubroom and library, and externally in the central courtyard and on the upper-level terraces.

Minor variations have been identified in relation to the ADGs, and are noted to be acceptable on merit. ADG departures are specified below;

- Objectives 2E- Building Depth - the appropriate maximum apartment depth to be 12 – 18m, however the proposal demonstrates all stage 1 buildings exceed the outlined depth. The building depth of all stage 1 building is consistent with the approved building envelopes approved under the modified concept approval as such the design in this manner is considered to be satisfactory as the modified concept approval prevails.

Additionally, the irregularity of the site and significant topography is deemed to compromise the typical built form depth. The depth of the stage 1 portion of the site is 102 - 113m, with a fall from east to west of 12m. The built form is stepped to accommodate the site pattern and thus noted to be the driving factor of the building depth. Rather, the stage 1 buildings are noted to be sympathetic to the site parameters and constraints, thus being a preferable outcome in this regard. The design is not considered to hinder or compromise the amenity, namely the opportunity for solar access or cross ventilation. Therefore, the variation noted to be satisfactory in the manner as a functional arrangement is retained as environmental comfort and amenity of preserved.

- Objective 2F - Building Separation – A setback of 12m between habitable rooms and balconies is outlined and the proposed development presents reduced separations between the stage 1 buildings. The separation pattern between the building was considered and accessed within concurrent modification application DAM0146/2024 as it sought consent to increase the building separation of the originally approved building envelopes. Noting the overall improvement, the modification approved, thus the subject development is consistent with the modified concept approval. Further consideration of the design and potential implication has been undertaken and whereby reduced separation is proposed, the design has employed an associated mitigation measure. A variety of mitigation measures have been relied upon to enable suitable privacy whereby a compliant setback between habitable space is noted, including, screening, room and balcony orientation and landscaping demonstrates the impacts a within reasonable limits, and do not compromise visual privacy. Privacy screens have been integrated into the design and the materials of such screens is complementary to the architectural design and finish, thus being a cohesive aspect that blend well with the external façade. The orientation of the rooms and or balcony where a setback is reduces has also been noted to reduce the observation and opportunity for direct overlooking. Finally, the landscape design of the site is anticipated to enable obstruction in view where there are reduced building setbacks. The landscape sections and choice in tree planting demonstrates flora to be relied upon for an added layer of protection. As such, noting the consistent arrangement with the modified concept approval and the suitable mitigation measures, the design noted to be acceptable and does not hinder amenity or visual privacy in a manner that will have adverse effects to future residents.
- Objective 3F-2 - Visual Privacy – as outlined above separation between habitable rooms and balconies to be 12m. Objective 3F-2 reiterates the separation requirements in reference to visual privacy, and specifies the separation distances from buildings to the side and rear boundaries. The design presents compliant setback distances between the southern boundary, 15 Benson Avenue, Shellharbour City Centre and the western site, 13 Benson Avenue, Shellharbour City Centre. However, a reduced setback is noted between staging boundary between stage 1 buildings and future stage 2 buildings. Stage 1 building adjacent the internal staging boundary are R3 and R4 and present a varied separation of 6 – 6.2m. However, the use of screening, obscure window glazing, orientation of balconies and rooms, the window design and landscaping around the site perimeter to suitably protect the visual amenity and prevent direct overlooking. As addressed above, the relevant design solutions and mitigation measures have been employed to offset any visual and acoustic privacy impacts.
- Objective 4A-1(3) - Solar and Daylight Access – the ADGs specify the maximum number of apartments to receive no direct sunlight during mid-winter is 15%. The design of the stage 1 buildings notes 43 of the 152 units will not receive 2 hours of continuous solar access between 9am – 3pm during winter, rather will receive broken solar access through the course of the day. As such the impacted units are expected to receive some sunlight throughout the course of the day. Therefore, the impact is considered to be preferable

being the superior design rather than units receiving no solar opportunities. Furthermore, as stage 1 is located at the most southern portion of the subject site, the overall solar access design is anticipated to only improve across later stages, and thus, comply with subsections 1 and 2 of respective objective. Wholistically, the solar access opportunities for the stage 1 area of the site are considered acceptable as 71.7% of the units will receive 2 hours of continuous solar access and 28.3% to receive solar access in a broken form. Therefore, there no units within stage 1 that will receive no sunlight. Cumulatively, this is an improved outcome in comparison to 15% of the unit make up receiving on sunlight into the dwelling, and henceforth a superior outcome for the amenity and liveability of the site.

- Objective 4D-2(2) - Apartment Size and Layout – whereby open plan apartments are proposed the maximum room depth is 8m from a window. The arrangement presents a variation in this regard as 51.9% of units exceed the 8m depth. It is noted, in the instance where the open plan layout is greater than 8m, a supplementary window or door opening is featured to increase the opening opportunity. The layout ensures the environmental performance is maximised through alternative window and or balcony openings, offsetting loss of light or ventilation through an additional source and vantage point. While the separation may be greater than 8m, the opening opportunity is offset through the inclusion of multiple sources. Furthermore, the window design deemed to be of a distinction average when considering the large openings in a manner to mitigate the room depth. This is noted to be a direct correlation and result of the building depths, which is as per the concept approval in terms of the approved building envelopes under the concept approval. Much like the additional variations to the guide, the relevant mitigation measures have been incorporated into the design in manner that is not anticipated to hinder amenity, functionality, liveability or quality of life to the future senior residents.
- Submissions – The submissions and concerns expressed by submitters have been considered as part of the assessment. All issues raised can be suitably mitigated either via the imposition of the appropriate conditions within the notice of determination, or through the design of the development. Two (2) submissions were received and both expressed the need for fencing along the southern boundary between the site and 15 Benson Avenue. A condition has therefore been recommended to include a 1.8m fence along the southern boundary, to enable privacy and security between the sites and the request within the submission considered to be a reasonable solution.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a comprehensive assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

It is considered that the key issues as outlined in Section 6 been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment G**:

7. RECOMMENDATION

That the Development Application DA0365/2024 for the demolition of existing structures and tree removal, construction of four residential flat buildings with 152 x independent living units and a clubroom and library, two levels of basement parking, associated landscaping and a new road at 171 Wattle Road, Shellharbour City Centre be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent.

The following attachments are provided:

- Attachment A: State Environmental Planning Policy (Housing) 2021
- Attachment B: Apartment Design Guidelines
- Attachment C: Shellharbour Local Environmental Plan 2013
- Attachment D: Shellharbour Development Control Plan 2013
- Attachment E: Precinct Development Strategy – Precinct M
- Attachment F: Design Review Panel Comments
- Attachment G: Draft Notice of Determination
- Attachment H: Architectural Plans
- Attachment I: Civil Plans
- Attachment J: Landscape Plans
- Attachment K: Traffic Impact Assessment
- Attachment L: Arboricultural Impact Assessment
- Attachment M: Demolition and Construction Waste Management Plan
- Attachment N: Operational Waste Management Plan
- Attachment O: Operational Management Plan
- Attachment P: Noise Impact Assessment
- Attachment Q: Access Report
- Attachment R: Construction Management Plan
- Attachment S: BASIX Certificate
- Attachment T: Services Infrastructure Report
- Attachment U: Stage 1 Geotechnical Site Investigation and Groundwater Inflow Assessment Report - 171 Wattle Road, Shellharbour City Centre